IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14659 of 2003

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Between:

G.Laxminarayana Goud, S/o.Anantaiah Goud,
Gadmaguda Gram Panchayat, Dharur Mandal,
R.R.Dist.

..... PETITIONER

AND

-

The Collector (Panchayat Wing), Ranga Reddy District,
Lakdikapul, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly one in the nature of writ of mandamus declaring the impugned suspension notice in Proceedings No.B2/2655/03 dated 15-7-2003 as arbitrary, illegal and in gross violation of the principles of natural justice and statutory provisions of the A.P. Panchayat Raj Act.

Counsel for the Petitioner: MR.VIJAY KUMAR HEROOR

Counsel for the Respondent: GP FOR PANCHAYAT RAJ &

RURAL DEVELOPMENT

The Court made the following ORDER:

The petitioner is Sarpanch of Godamaguda Gram Panchayat. The respondent by proceedings dated 15-7-2003 suspended the petitioner on certain allegations and the same was not preceded by notice as contemplated under first proviso to sub-section (6) of Section 249 of A.P. Panchayat Raj Act, 1994 (for short 'the Act'). The said order is assailed in this writ petition.

This court while admitting the writ petition on 18-7-2003, passed the following order.

"Prima facie, the impugned order discloses an instance of non-application of mind, violation of statutory provisions and acting at the behest of the superior authorities.

Section 249(6) of the A.P. Panchayat Raj Act, 1994 (for short 'the Act') confers powers on the District Collector alone to place a Sarpanch under Suspension, under Section 249(6) of the Act, the District Collector is required to issue notice to him. The respondent did not choose to follow the mandatory provisions. He has recorded a finding that it is established that the petitioner had failed to carry out the powers and functions vested under the provisions of the Act without conducting any enquiry. If an elected representative as the Sarpanch, who is accorded constitutional and statutory protection can be suspended on the basis of such general allegations, various officials, including the District Collector can also be placed under suspension. This Court does not find any legal or factual basis for the impugned order. The respondent, who is an IAS officer, did not even care to verify as to whether the sentences in the impugned order are grammatically sound. Hence there shall be interim suspension of the impugned order."

The respondent has filed vacate stay application. There is no denial of the fact that the impugned order was not preceded by the mandatory notice as required under the statute. Therefore, instead of keeping the matter pending, the Writ Petition is disposed of in terms of the interim order as the period of suspension would have come to an end by 14th October, 2003, assuming that the Government had not

exercised the power under second proviso to sub-section (6) of Section 249 of the Act. It shall, however, be open to the respondent to take necessary action against the petitioner in accordance with law, if the situation warrants.

The Writ Petition, with the above observations, is accordingly allowed. No costs.

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V.V.S. RAO, J.

23rd July, 2004

Js

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Friday the twenty third day of July, Two thousand and four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Collector (Panchayat Wing), Ranga Reddy District, Lakdikapool, Hyderabad.
2. Two CCs to G.P. for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad.(OUT)
3. 2 CD copies.